

TO: Deputy Chief Administrator
Civilian Office of Police Accountability

FROM: Investigator 1

SUBJECT: Log #1076072
U# 15-009

LOCATION: XXXX South Langley Avenue (Street)

REFERENCE: RD# XX-XXXXXX/ Aggravated Assault - Handgun
HY-XXXXXXXXX/Homicide – Justifiable
Event #XXXXXXXXX
M.E.'s Case Number 2015-XXXXX
ISP Case #XXX-XXXXXX

INVOLVED OFFICER: Officer A; Chicago Police Officer; Star #XXXXXX; W/M; Unit XXX;
Employee #XXXXXX; DOB: 16 July 19XX; DOA: 30 November 2012;
On-Duty; Civilian Dress; Beat XXXXXX.

INVOLVED OFFICER'S WEAPON: Glock Model 17 Gen4¹; 9mm Semi-Automatic pistol; Serial #XXXXXXX;
City Registration #XXXXXX; FOID #XXXXXXXX; Fired (3) rounds,
Department approved ammunition.

INVOLVED OFFICER'S INJURIES: None Reported

WITNESS OFFICER #1: Officer B .; Chicago Police Officer; Star #XXXXXX; B/M;
Unit XXX; Employee #XXXXXX; DOB: 09 August 19XX; DOA: 15
March 2013; On-Duty; Civilian Dress; Beat XXXXXX.

WITNESS OFFICER #1'S INJURIES: None Reported

WITNESS OFFICER #2: Officer C; Chicago Police Officer, Star #XXXXXX; B/M;
Unit XXX; Employee #XXXXXX; DOB: 30 July 19XX; DOA: 29
September 2003; On-Duty; Civilian Dress; Beat XXXXX.

WITNESS OFFICER #2'S INJURIES: None Reported

¹ Black in color

**WITNESS
OFFICER #3:** Officer D ; Chicago Police Officer, Star #XXXXXX; H/M; Unit XXX; Employee #XXXXXXX; DOB: 22 July 19XX; DOA; 05 October 2012; On-Duty; Civilian Dress, Beat XXXXX.

**WITNESS
OFFICER #3'S
INJURIES:** None Reported

SUBJECT: Subject 1; B/M; DOB: 29 June 19XX; Address: XXXX South Green Street, Chicago; IR #XXXXXXX

**SUBJECT'S
WEAPON:** Smith & Wesson Model SW40VE²; .40 caliber semi-automatic pistol; (Inventory #XXXXXXXXXX).

**SUBJECT'S
INJURIES:** Multiple gunshot wounds; Fatal.

**IPRA
NOTIFICATIONS:** IPRA Chief Administrator
IPRA Deputy Chief Administrator
IPRA Chief of Staff
IPRA Director of Community Outreach & Engagement
IPRA Supervising Investigator
IPRA Investigator 1
IPRA Investigator 2

**DATE & TIME OF
INCIDENT:** 09 July 2015, at approximately 2334 hours

**TIME OF IPRA
NOTIFICATION:** 09 July 2015, at approximately 2356 hours

**TIME IPRA
ARRIVED
ON-SCENE:** 10 July 2015, at approximately 0030 hours

SUMMARY OF INCIDENT:

On 09 July 2015, at approximately 2334 hours, Officer A, #XXXX, #XXXXXX and Officer B #XXXXXX were working Beat XXXXXX as part of a XXXth District Mission Team³. Officer A and Officer B responded to a “person with a gun” call. OEMC provided the location as XXXX South Langley Avenue (700E), and a description of the individual as a black male wearing a Chicago Blackhawks cap backward and a leather jacket. OEMC also indicated that the subject had been seen placing the weapon in his waistband. As Officer A and Officer B arrived at the

² Stainless Steel and black in color.

³ A specialized team that focuses their attention on robberies and burglaries.

XXXX block of Langley Avenue in their unmarked vehicle, they saw the subject, now known as Subject 1. The officers observed that Subject 1 was wearing a black jacket, and a black leather Blackhawks baseball hat. Subject 1 was standing amongst a large group of individuals on the street.

Officer A exited the vehicle, drew his duty weapon, and approached Subject 1 who turned and began to walk quickly away from Officer A. Officer A closed the distance between himself and Subject 1 and grabbed Subject 1 by the back of the upper part of his jacket. When Officer A announced his office, and told Subject 1 to show his hands, Subject 1 refused to show his hands and continued to move away from Officer A. Subject 1 then began to turn his upper body toward Officer A, and Officer A could see Subject 1's hand on a handgun in his waistband. As Subject 1 started to pull the handgun from his waistband, Officer A released his grip on Subject 1's jacket and discharged his weapon, striking him. Subject 1 released his hold on the handgun and fell to the ground.

Once on the ground, Subject 1 then pulled the handgun free of his waistband and pointed it at Officer A. Officer A fired again at Subject 1. Subject 1 rested the handgun on his chest and Officer A kept his firearm pointed at Subject 1 until Officer C #XXXXXX and Officer D #XXXXXX (Beat XXXXXX) approached. Officer C kicked the handgun from Subject 1's hand. It was later determined that Officer A fired three rounds.

Subject 1's firearm was recovered from the sidewalk at XXXX South Langley Avenue. Chicago Fire Department Ambulance #24 responded to the scene and determined that Subject 1 did not exhibit any signs of life. Due to safety concerns at the scene, the ambulance transported Subject 1 to Jackson Park Hospital at the request of the police. It was determined that Subject 1 had sustained multiple gunshot wounds to his left arm, a wound to his lower right back, a wound to his right palm, a wound to his right middle finger, and a wound to his right ring finger. Subject 1 was pronounced dead by Doctor 1 at 0041 hours on 10 July 2015 at Jackson Park Hospital.

APPLICABLE RULES:

Chicago Police Department General Order, GO 03-02-03; Deadly Force

INVESTIGATION:

According to the **Department Reports, (Case Incident, Major Incident Detail Report)** Officer A and Officer B responded to a "person with a gun" call. Upon arriving at the scene, they observed Subject 1, who matched the description given by OEMC. When Officer A exited the police vehicle and attempted to stop Subject 1, Subject 1 began to pull a handgun from his waistband. Fearing for his own safety and that of Officer B, Officer A fired his duty weapon at Subject 1 striking him. Subject 1 fell to the ground, pulled the handgun free from his waistband and pointed it at Officer A who then fired his weapon at Subject 1 again.

According to a **Tactical Response Report (TRR)**, completed by Officer A, Subject 1 did not follow verbal direction, fled, pulled away, placed Officer A in imminent threat of a battery, and used force likely to cause death or great bodily harm. Officer A responded with member

presence, verbal commands, pursued Subject 1, and used his firearm. The TRR indicates Officer A fired a total of three (3) rounds. (Att. #9)

According to the **Officer's Battery Report (OBR)**, completed by Officer A, he was On-Duty, in citizen's dress, and working with one partner. The report identifies the Type of Weapon/Threat as a Smith & Wesson .40 caliber semi-automatic. Officer A was not injured. (Att. #10)

IPRA investigators conducted a **canvass** of the location of the incident, and identified one eyewitness: Civilian 1. At the time of the canvass, Civilian 1 indicated that he would provide an interview at a later date. (Att. #63)

The video footage from **POD #XXXX (OEMC/Operation Virtual Shield) was ordered and obtained**. The POD did not capture the incident. There is no known video footage that captures any portion of this incident. (Att. #148)

The **Chicago Fire Department Ambulance Report** documents that EMS personnel arrived at XXXX South Langley Avenue at 2341 hours. They found Subject 1 lying on the sidewalk on his right side. He had sustained a gunshot wound to the left side of his neck, a gunshot wound to his left bicep, a gunshot wound to his left forearm, a gunshot wound to his left lower back, and a gunshot wound to his right middle finger. Subject 1 was bleeding, unresponsive, and not breathing. An EKG determined that he had no heartbeat. The EMS personnel's assessment of Subject 1 was that he was deceased. Police declared a crime scene, but requested that EMS transport Subject 1 from the scene because the scene was not safe. The ambulance crew received permission and transported Subject 1 to Jackson Park Hospital. (Att. #48)

The **Medical Records obtained from Jackson Park Hospital** indicate that Subject 1 was received at the hospital Emergency Room via ambulance on 10 July 2015 at 0019 hours. Subject 1 had a severe penetrating gunshot wound to the side of his neck and was unconscious/unresponsive when he arrived. He had no vital signs and was pronounced dead at 0041 hours, on the same date. (Att. #103)

The **Report of Postmortem Examination** indicates that the autopsy of Subject 1 was performed in the morgue of the Cook County Medical Examiner's Office on 11 July 2015 commencing at 0810 hours. The autopsy determined that Subject 1 had sustained the following:

- A gunshot wound that penetrated his neck on the left side, traveled through the soft tissue of the neck, right lung, and right rib cage causing internal bleeding. A projectile was lodged in the muscle of Subject 1's right back and recovered from that location. The direction of the wound track was downward, left to right, and front to back.
- A gunshot wound that penetrated his back on the lower right, traveled through the skin, tissue, right loin muscle, with clotted blood in the abdominal cavity. A projectile was lodged in and recovered from the left abdominal wall. The direction of the wound track was back to front, upward, and right to left.
- A gunshot wound complex of his left arm that entered on the posterior of his left forearm, exited near the anterior of his left forearm; that exit wound being consistent

with a “shored” ⁴ exit wound. The projectile re-entered the skin of the outer anterior of the lower biceps area, the projectile then exited a second time, at the anterior of the mid-left biceps area. The overall direction of the gunshot wound complex is back to front, upward, and left to right.

- A gunshot wound complex of his right hand with the projectile grazing the anterior base of his right hand near his little finger, the projectile grazed the anterior of his right ring finger and then passed through the middle of his right third finger, and exited the posterior of his third finger. The overall direction of the gunshot wound complex is downward and left to right.
- Irregular abrasions on his anterior left neck and left upper chest⁵.

Defects on some of Subject 1’s clothing correspond to some of the above-described gunshot wounds. All of the wounds were of indeterminate range with no soot/stippling. Bullet fragments were recovered from a white “T” shirt Subject 1 was wearing on his chest. The pathologist determined that the cause of death was Multiple Gunshot Wounds, and the manner was Homicide. (Att. #100)

Evidence Photographs depict Subject 1 and his wounds at the hospital; the crime scene; firearms evidence; a black Chicago Blackhawks baseball cap; the firearm recovered at the scene; Subject 1 at the morgue after his autopsy; and Officer A and Officer B at Area South. (Att. #111)

Medical Examiner’s Photographs depict Subject 1’s clothing; his body; his wounds as described in the Report of Postmortem Examination; recovered fired evidence; and trajectory rods illustrating the wound track of his left arm and wounds to his right hand. (Att. #97)

Three **Crime Scene Processing Reports** are associated with RD #HY - XXXXXX/Assault – Aggravated PO: Handgun. Report #XXXXXX documents that a black baseball-style hat bearing a Blackhawks logo was among the items recovered at the scene. In addition, Officer A’s Glock 17 was recovered with a seventeen (17) round capacity magazine. There were fourteen (14) live rounds of ammunition in the magazine, and one (1) live round of ammunition in the chamber of that weapon.

The Smith & Wesson SW40VE .40 caliber pistol reportedly belonging to Subject 1 was recovered with a thirteen (13) round capacity magazine, eleven (11) live rounds of ammunition in the magazine, and one (1) live round in the chamber of that weapon. (Att. #150)

Report #XXXXXX documents the recovery of evidentiary items from the medical examiner which included, a fired bullet and Subject 1’s clothing (a navy blue Nike brand zippered jacket, white t-shirt, blue jeans, shoes and socks). (Att. 49)

⁴ A type of wound sustained when the surface through which it exits is “shored”, or supported, by some means including tightly fitted clothing or a solid surface.

⁵ Possibly consistent with two bullet core fragments recovered from Subject 1’s “T” shirt at the morgue.

Report #XXXXXX documents additional items recovered from the medical examiner, more specifically, a clear knotted bag containing smaller plastic bags each containing a white rocklike substance. (Att. 50)

Illinois State Police Forensic Science Laboratory Reports (ISP) document the examination of recovered firearms evidence in this incident. An analysis of the reports resulted in the following facts that are relevant to this investigation:

One fired bullet recovered from Subject 1's body was identified as having been fired from Officer A 's weapon.

One fired bullet recovered from Subject 1's body could not be identified or eliminated as having been fired from Officer A 's weapon, but was *not* fired from the Smith & Wesson SW40VE .40 caliber pistol that was recovered from the sidewalk at XXXX South Langley Avenue.

Two metal fragments recovered from Subject 1's "T" shirt were not suitable for microscopic comparison.

One Winchester nine millimeter fired cartridge casing recovered from the parkway near the sidewalk at XXXX South Langley Avenue was identified as having been fired by Officer A 's weapon.

One Winchester nine millimeter fired cartridge casing recovered from the front yard grass at XXXX South Langley Avenue was identified as having been fired by Officer A 's weapon.

A DNA profile that matched Subject 1 was identified in two swabs of suspect biological substance⁶ recovered from the Smith & Wesson SW40VE .40 caliber pistol. The examination of the Smith & Wesson SW40VE .40 caliber pistol did not reveal any latent fingerprint impressions suitable for comparison.

The examination of Officer A 's weapon determined it to be operable as received and it was test fired using a magazine and ammunition submitted with that weapon. The examination of the Smith & Wesson SW40VE .40 caliber pistol determined it to be operable as received and it was test fired. A test-fired casing was entered into the IBIS⁷ database, but no identification was made. (Atts. #124 -125, 128)

An **Illinois State Police Forensic Science Laboratory Report (ISP)** documents the examination of white, rock-like substance recovered from the morgue investigative staff in this incident. Results of that testing were positive for cocaine. (Atts. #50, 127)

The **Detectives' Supplementary Report for RD #HY -XXXXXXX** documents in essence the same information provided in the Introduction of this report, the Departmental reports,

⁶ The material on the swabs is identified in all reports specifically as "suspect biological substance", and not as a particular substance such as blood. It should be noted that no apparent blood could be observed in any of the crime scene photographs of the pistol.

⁷ Integrated Ballistics Identification System, which compares fired evidence to other crimes.

and the information provided by the involved officers and witnesses. In addition, the detectives interviewed **witness Civilian 2** who stated that, on the date of incident, she was sitting in her personal vehicle with her cousin Civilian 3, listening to music and talking with a male known to her as “Juju” who was standing outside Civilian 2’s vehicle. A subject ran past Civilian 2, with a police officer⁸ chasing him. The officer said something to the subject, but Civilian 2 could not hear what was said because of the volume of the music. The officer fired once at the subject who fell to the ground. The officer then fired three more shots at the subject. Civilian 2 further stated that as the subject lie on the ground, she could see a handgun on the ground next to him. EMS then arrived at the scene.

The detectives also interviewed **witness Civilian 3** who stated that a police vehicle with its lights activated pulled up behind Civilian 2’s vehicle. A black male ran past Civilian 2’s vehicle, being chased by a police officer wearing a black protective vest with “POLICE” on the back. According to Civilian 3, she heard the sound of a TASER being deployed at this time. The officer fired once at the male, who fell to the ground and the officer fired several additional times at the male. After the officer fired at the male, Civilian 3 heard a male voice from a crowd of twenty (20) to thirty (30) people on the street yell, “Why did you shoot him?” The officer responded, “He had a gun.” Civilian 3 then observed a “two-tone” handgun lying next to the male on the ground. (Att. #152)

During a canvass, detectives identified **witness Civilian 4**, who stated that he observed a police officer approach the subject who ran. The officer chased the subject and fired his weapon at the subject with no words exchanged. Civilian 4 stated that he began to scream at the officer why he shot at the subject. The detectives noted that Civilian 4 had been consuming alcohol. (Atts. #152, 153)

The Complaint at Law in the United States District Court for the Northern District of Illinois Eastern Division (16 cv 07064), indicates that on 09 July 2015, Officer A and/or unidentified officers shot Subject 1 without justification. As of June 16, 2016, no depositions have been taken in the matter. (Att. #120).

The Office of Emergency Management and Communication (OEMC) Event Queries and Radio Transmissions documented the following:

At 2327 hours, a female 911 caller reported a man with a gun on the XXXX block of Langley Avenue. The caller described the individual as a black male wearing a Blackhawks cap backwards and a leather jacket; the caller reported that the subject was in the middle of the block toward a cul-de-sac and had the weapon in his waistband.⁹

At 2328 hours, a female 911 caller reported loud music on the street at 7444 South Langley Avenue.

⁸ The officer was wearing a protective vest.

⁹ That caller was identified as Civilian 5, who was contacted and stated that she and her husband Civilian 6 subsequently heard but did not witness the shooting.

At 2332 hours, a female 911 caller reported loud music and drinking on the XXXX block of South Langley Avenue.

At 2332 hours, OEMC dispatched Beat XXXXX to XXXX South Langley. The remarks in the Event Query indicate that the officers were informed that the 911 caller reported seeing a black male, "leather jacket, Blackhawks cap turned backwards – seen putting a gun in his waistband. He's in the middle of the block toward the cul-de-sac...there's a party on the street with loud music/drinking/weed smoking."

At 2333 hours, a female 911 caller reported shots fired in the area of XXXX South Langley Avenue.

At 2334 hours, a female 911 caller reported shots fired at XXXX South Langley Avenue with unknown injuries; caller then states that police are on the scene.

At 2334 hours, a female 911 caller reported a person shot by the police at XXXX South Langley Avenue.

At 2334 hours, Civilian 7 called 911 and reported that the police shot his friend in the back; Civilian 7 was transferred to EMS.

At 2335 hours, Beat XXXXX reported shots fired by the police; Zone 8 then contacted EMS with the information that a person had been shot and the location of the incident.

At 2336 hours, a female 911 caller who stated she was fourteen years old, called twice to report a person shot by the police.

At 2336 hours, a female 911 caller reported someone shot possibly by police at XXXX South Langley Avenue. (Atts. #11 – 43, 131 – 138)

Attempts to obtain statements from witnesses other than those documented below, via telephone, U.S. mail, and/or personal visit, were unsuccessful. These efforts included attempts at contact with all of the persons who called 911 to report the party, the person with the gun call, and the shots fired call. (Atts. #112, 118, 147, 149)

CIVILIAN WITNESS STATEMENTS

In a **statement to IPRA**, witness **Civilian 8** stated that, just prior to the incident, he had been leaning against a parked vehicle, facing away from the street. A vehicle pulled up and Civilian 8 looked around to see an unmarked SUV with a spotlight mounted on both sides of the exterior of the vehicle. Civilian 8 stated that an officer exited from the passenger side of the vehicle, holding a handgun that had a light attached. That individual stated words to the effect of, "nobody move or I'm shootin'." Civilian 8 started to back away and the individual passed him, and Civilian 8 could see that the individual was wearing casual clothes and a protective vest; Civilian 8 realized that the individual was a police officer. Subject 1 had been standing to the left of Civilian 8 when the SUV arrived and began to back away from the officer at the same time as

Civilian 8. The officer passed Civilian 8, bumping against him as he did, with his weapon pointed at Subject 1. Subject 1 was slowly jogging away from the officer with his body at a slight angle. The officer fired one shot; Subject 1's hands flew up and he fell to the ground with his hands out as if trying to break his fall.

As Subject 1 lay on the ground, he rolled partially onto his right side and reached toward the area of his lower back on his left side with his left hand. Civilian 8 explained, "it's like he was tryin' to like grab the wound almost, you know...like when he fell like this he was grabbin' something."¹⁰ As Subject 1 did so, the officer then fired five additional times at Subject 1 in rapid succession. Civilian 8 could not see Subject 1's right hand when the officer fired the additional times, as a jacket Subject 1 was wearing covered it. After the final shot, Civilian 8 noticed a second officer, a black male also in casual dress. That second officer joined the officer who shot Subject 1 in turning Subject 1 over and searching him; Civilian 8 stated that he could see blood on Subject 1's face and in his "abdominal" area when the officers turned him. The second officer radioed for crowd control. Other officers arrived and began the preliminary investigation. Civilian 8 also stated that as officers made citizens move back from the shooting scene, the black officer who had been with the officer who shot Subject 1 stated that there was a "gun" at the scene. Civilian 8 stated that he was approximately 20 feet away at the time and did not see a weapon. He further stated that he did not see a firearm at any time during the incident. Civilian 8 described Subject 1 as a childhood friend who had a record of carrying a weapon, but he did not know whether Subject 1 had a weapon on his person on the date of the shooting. (Att. #119)

In a **statement to IPRA, witness Civilian 4** stated that, prior to the shooting, he had been one of approximately seventy (70) individuals standing outside on the XXXX block of Langley Avenue celebrating a birthday party. Civilian 4 stated that he was standing with several other males, including Subject 1. A marked squad car pulled up, and two officers exited. The passenger officer, who was in uniform, immediately drew his weapon while exiting the vehicle. The passenger officer grabbed Subject 1 by the shoulder. Subject 1 turned and ran, with the officer pursuing him. The officer ordered Subject 1 to "Stop" and fired one time, striking Subject 1 in the back. Subject 1 fell face down to the ground with his hands in the air and the officer then fired four additional times, striking Subject 1 in the back. Civilian 4 stated that he saw an officer kick away a firearm from near Subject 1, but that the firearm was not in Subject 1's hands when the officer kicked it away. (Att. #94)

In a **statement to IPRA, witness Civilian 2** gave in essence the same account she gave when interviewed by detectives. Civilian 2 stated that the officer who chased the subject was wearing jeans, a white shirt, and a protective vest. Civilian 2 stated that the officer was close behind Subject 1, just out of arms' reach. She stated that after the officer fired at the subject the second time, while the subject was on the ground, she turned to look at Civilian 3 and when she looked back she saw the handgun on the ground near the subject's head. Civilian 2 could not provide any additional information for "Juju". (Att. #66)

In a **statement to IPRA, witness Civilian 3** gave in essence the same account she gave when interviewed by detectives. Civilian 3 stated that as the subject ran past Civilian 2's vehicle with an officer approximately five feet behind him, in pursuit, Civilian 3 heard a sound that she

¹⁰ Attachment #119 – Statement of Civilian 4; Page 3; Lines 9-11

believed was a TASER being deployed, although she did not actually see this occur. Civilian 3 stated that she heard the sound of a gunshot, at which time Subject 1 fell to the ground. Civilian 3 stated that the officer then directly stood over Subject 1 and fired five or six times striking him in the back. Civilian 3 then saw the officer kick a silver colored handgun with brown grips away from the subject. (Att. #70)

In a **statement to IPRA**, **Civilian 7** stated that, on the date of the incident, he was standing with Subject 1 and a number of individuals when the police pulled up. The officers exited the vehicle and asked, "What's going on here?" Civilian 7 and Subject 1, who were standing next to each other, turned and began to walk away from the officers. Civilian 7 stated that he had a bag of marijuana on his person that he did not want the officers to find. He stated that he did not know if Subject 1 had anything illegal on him. One of the officers said, "Hey you. Come here." Civilian 7 and Subject 1 turned their heads toward the officers at the same time, and the officers began to run toward them. Civilian 7 stated that he believed the officers saw an emblem on the front of Subject 1's cap, and had a description of him because someone had called the police about him. Civilian 7 further stated that he also based his belief on the fact that the officers focused on Subject 1 amongst the group of people gathered on the street. Subject 1 ran, but Civilian 7 did not. One officer chased Subject 1 who ran with his hands to his side and at one point Subject 1 turned his shoulder to one side as if to avoid being grabbed by the officer. The officer did manage to grab Subject 1, who broke free and continued to run. As Subject 1 ran with his back toward the officer, the officer drew his weapon and fired once striking Subject 1 who fell face forward to the ground. The officer ran to Subject 1's side and fired what Civilian 7 believed were four more rounds into Subject 1's back as he lie on the ground not moving. People on the street began to react, asking, "Why the fuck did you shoot him?" The officer who shot Subject 1 responded, "He had a gun on him. It's right fuckin' there. He had a fuckin' gun." (Att. #108)

POLICE OFFICER STATEMENTS

OFFICER D

In a **statement to IPRA**, **witness Officer D #XXXXXX**, provided his account of this event. Officer D stated that, on the date of incident, he and Officer C #XXXXXX were assigned to Beat XXXXX. Officer C was the driver of their unmarked squad car and Officer D was the passenger. Prior to the shooting, Officers D and C had stopped near XXXX South Champlain Avenue (634E). The officers stopped so Officer C could speak with a fellow officer he knew. While at the location, Officers D and C monitored an OEMC call of a man with a gun. The individual was described as a male with a black leather jacket and a black Chicago Blackhawks hat. The location was given was XXXX South Langley Avenue, which was only a short distance away. Officer C attempted to drive through an alley, but it was blocked, leading him to back out and take another route.

When Officers D and C arrived at the scene, they observed a police vehicle stopped in the middle of the street. As Officer D started to exit his vehicle, he heard gunshots, a short pause, and then more gunshots. Officer D then radioed a 10-1¹¹, drew his weapon, and exited his vehicle. There was a large number of males standing in the street and on the sidewalk; Officer D made his way through them to find the other officers, now known to be Officer A and Officer B. Officer D saw Officer B standing in the street and then saw Officer A standing near a male, now known to be Subject 1, who was lying on the ground. Officer B had his weapon drawn in a “ready” position and was focusing on the crowd of twenty (20) to thirty (30) individuals who were on the street. Subject 1 was lying on his side, holding a handgun, and gasping for air. Officer D then turned his attention to the crowd that had surrounded the officers. Unidentified individuals in the crowd stated, “Go get the pipe (firearm)” and “We are gonna murk (murder) y’all.” Officer D did not observe what happened to the handgun Subject 1 had been holding, but he did radio that an officer-involved shooting had occurred and that EMS was required at the scene. (Att. #89)

OFFICER C

In a **statement to IPRA, witness Officer C #XXXXXX**, provided his account of this event. Officer C stated that as he and Officer D were exiting their vehicle at the scene, he heard gunshots. It sounded as if there were two shots, a brief pause, then two or three more shots. Officer C announced a 10-1 over the radio. There was a crowd of approximately twenty (20) citizens on the street and Officer C began looking for Officer A and Officer B. Officer C and Officer D ran toward where they believed the shots had been fired. Officer C saw Officer B standing in the street and Officer A approximately 8-9 feet away from Subject 1, covering him with his weapon. Subject 1 was lying on the ground on his right side, gasping for air, and attempting to get to his feet. Officer C stated that Subject 1’s arms were above his head and he was holding a handgun in his right hand. Officer C stated that he kicked the weapon from Subject 1’s hand. Officer C stood guard over the weapon until he was relieved by another officer. (Att. #87)

OFFICER B

In a **statement to IPRA, witness Officer Officer B #XXXXXX**, provided his account of this event. Officer B stated that, on the date of incident, he and Officer A # # XXXXXX were assigned to Beat XXXXXX. Officer B was the driver of their unmarked SUV and Officer A was the passenger. Prior to the incident, Officers B and A had assisted other officers on 75th Street. They monitored an OEMC call of a man with a gun. The individual was described as wearing a black leather jacket and a black Chicago Blackhawks hat; it was also indicated that he had the weapon in his waistband. The location was given as 75th Street and Langley Avenue. As they reached the area where the man with a gun had reportedly been seen, Officer B observed Subject 1 amongst a crowd of individuals gathered on the street. Subject 1 fit the description provided by OEMC and Officer B alerted Officer A to Subject 1’s presence. Officer A exited the vehicle, announced his office, drew his weapon, and walked toward Subject 1.

Officer B heard Officer A state, “Show me your hands.” Subject 1 separated from the crowd and began to walk away from Officer A. Officer B exited the vehicle and focused his

¹¹ Officer needs assistance.

attention on the crowd. Seconds later, Officer B heard one or two gunshots, a short pause, and then one or two additional shots. Officer B then saw Officer A standing near Subject 1, who was lying on the ground. Subject 1 was lying partially on his back and was holding a handgun. Officer B radioed for assistance and medical assistance arrived for Subject 1. Officer B explained that the weapon Subject 1 was holding was recovered from the area where Subject 1 lie on the ground. Officer B stated that an unidentified officer guarded the weapon until it was recovered. (Att. #85)

OFFICER A

In a **statement to IPRA**, involved Officer A# # XXXXXX provided his account of this event. Officer A explained that Subject 1 fit an OEMC description of a man wearing a Chicago Blackhawks hat with a handgun in his waistband. OEMC further stated that the subject was standing amongst a group of individuals on the street. When Officer A and Officer B arrived at the scene, Officer A began to scan the group looking for the subject of the call. Officer B stated, "... there he is right there on the right." Officer A looked in the direction to which Officer B was referring and saw Subject 1 wearing a leather Blackhawks cap. Subject 1 was standing in front of a group of individuals leaning against an automobile.

Officer A told Officer B to stop the vehicle and exited as Officer B slowed. Officer A drew his weapon as he exited the police vehicle. Officer A made eye contact with Subject 1, started to approach him, announced his office, and told Subject 1 to come to him. Instead, Subject 1 turned and began to walk away from Officer A. Officer A stated that he closed the distance between Subject 1 and himself and grabbed Subject 1 by the collar of his jacket. Subject 1 continued to walk and attempted to shake Officer A's grip loose from his collar. Officer A ordered Subject 1 to show him his hands, and Subject 1 ignored the order and began to turn his upper body in Officer A's direction. At that time, Officer A saw Subject 1's hand on a handgun in his waistband. As Subject 1 began to draw the weapon from his waistband, Officer A released his grip on Subject 1's collar and fired one or two rounds at Subject 1. Officer A stated that at that time, Subject 1 fell to the ground, landing on the right side of his back.

Officer A stated that as Subject 1 fell onto his right side and slightly on his back, he then pulled the handgun out from his waistband. Subject 1 was facing Officer A's direction and Officer A believed Subject 1 was going to shoot him or aim the weapon in his direction. Fearing for his safety and that of Officer B, who was behind him, Officer A fired one or two additional rounds at Subject 1. Officer A backed away from Subject 1 so he could cover Subject 1 and watch the crowd, which had now become hostile and were shouting physical threats at the officers. Officer A

stated that Subject 1 still had the handgun in his possession but was barely moving; as a result, Officer A believed Subject 1 was no longer a threat. Officer A stated that Officer C arrived and kicked the weapon away from Subject 1. Officer A requested an ambulance and other units arrived at the scene. Officer A obtained permission to sit in a sergeant's vehicle until the investigation of the incident began. (Att. #92)

CONCLUSION:

Legal Standard

The applicable Chicago Police Department order is General Order 03-02-03, III, which states that a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. To prevent death or great bodily harm to the sworn member or to another person, or:
2. To prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - a. Has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. Is attempting to escape by use of deadly weapon or;
 - c. Otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.

In addition, the use of deadly force is codified under 720 ILCS 5/7-5 (1986). The pertinent part of the statute states that:

“[a] peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person...”

Finally, determinations regarding the potential use of excessive force - deadly or not - in the course of an arrest, investigatory stop, or other “seizure” are properly analyzed under the Fourth Amendment's objective reasonableness standard. The question is whether the officers' actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989); *see Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). Moreover, the reasonableness calculation “must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Graham*, at 396–97. Consequently, “when an officer believes that a suspect's actions [place] him, his partner, or those in the immediate vicinity in imminent danger of death or serious bodily injury, the officer can reasonably exercise the use of deadly force.” *Muhammed v. City of Chicago*, 316 F.3d 380, 683 (7th Cir. 2002) (quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir.1988) (en banc) and omitting emphasis).

1. *There is more than a preponderance of evidence showing that Subject 1 was armed with a firearm.*

This incident began when a 911 caller reported a man with a gun on the XXXX block of Langley Avenue. The 911 caller claimed having seen an individual wearing a leather jacket and a Blackhawks cap on backward, placing a gun into his waistband. This information was then communicated to Officer A ; he and his partner responded to the incident location. When Officer A arrived, he immediately identified a man that he believed matched the description provided by the 911 caller. In his statement, Officer A recalled that he saw Subject 1 wearing a black jacket and a backwards leather Blackhawks cap. To be sure, a Blackhawks cap was recovered at the scene. In addition, a black jacket, albeit not leather, was among the clothing Subject 1 wore that was recovered from the Medical Examiner's office. Officer A exited the squad car from the passenger side and began to approach Subject 1. Officer A attempted to stop Subject 1 as Subject 1 walked away from the large group of people that congregated at the location. Officer A was following Subject 1 and when he reached out to stop him, Subject 1 turned toward Officer A with his hand on a firearm in his waistband that was clearly visible to the officer. Officer A claims that he immediately saw the butt of the handgun as Subject 1 turned towards him.

Although none of the witnesses acknowledged seeing Subject 1 with a firearm in his possession prior to the incident, following the shooting, many of them reported seeing Subject 1's firearm either in his hand or on the ground next to him.

Finally, the fact that Subject 1 was in possession of the firearm is supported by the physical evidence. The Illinois State Police's examination of the recovered firearm confirmed that Subject 1's DNA was present on the weapon.

2. *Officer A's belief that Subject 1 was a threat when he turned toward the officer, placed his hand on the firearm in his waistband, then made a gesture indicating he might remove the firearm to use it against the officer.*

The fact that Subject 1 was armed, while important, does not end the inquiry. Being armed in and of itself, is insufficient justification for the use of deadly force. [legal cite here]. The question remains whether Officer A's use of deadly force against Subject 1 was warranted under the totality of circumstances. Moreover, since Officer A fired at Subject 1 first when he was attempting to flee on foot, and again when he was on the ground, we must assess whether the circumstances required such use of deadly force each time the Officer chose to fire his weapon.

a. The evidence suggests that Subject 1 presented a threat of death or great bodily harm to Officer A when he defeated the Officer's hold by turning and placing a hand on the firearm in his waistband.

According to Officer A, when Subject 1 attempted to flee, Officer A was able to close the distance between them and grab Subject 1 by the collar of his jacket. Subject 1 continued to walk and attempted to shake Officer A 's grip loose from his collar. Subject 1 ignored Officer A's

demand that he show his hands, then he began to turn his upper body in Officer A's direction. It was then that Officer A saw Subject 1's hand on a handgun in his waistband. Officer A claims that he fired in reaction to seeing Subject 1 begin to draw the weapon from his waistband.

- b. The evidence supports that Subject 1 removed the firearm from his waist during the altercation with Officer A.

According to Officer A, he first fired at Subject 1 after the Officer had grabbed Subject 1 by the collar and Subject 1 turned in the officer's direction then placed his hand on the firearm in his waistband and appeared to begin to draw the weapon from his waistband. Officer A claims he then saw Subject 1 fall to the ground then successfully remove the weapon from his waistband. Officer A's account is corroborated by Officer C who claims that, when he approached Subject 1, Subject 1 was holding a firearm in his right hand as he lay on his back. Officer C then kicked the weapon away from Subject 1's hand. Officer C's actions were observed by witness Civilian 3. He confirmed that he saw Officer C kick a firearm away from Subject 1's immediate vicinity. In his statement to IPRA, Officer C explained that as he approached Subject 1, he [Subject 1] was still alive, trying to get up, while holding his firearm in his right hand.

Witness Civilian 1 also confirmed that she saw a handgun on the ground near Subject 1's head, following the shooting. In addition, witness Civilian 3 explained that she saw an officer kick a silver colored handgun with a brown handle away from Subject 1.

The postmortem examination shows that Subject 1 was shot three times about the front of his body; right hand, left forearm, left side of his neck, and once in the back. The medical examiner found that Subject 1 was shot once in the right side of his back with the corresponding wound tracking across his body. The projectile lodged in the left abdominal wall. The medical examiner also found that Subject 1 was shot in the left side of his neck; the bullet travelled downward and lodged in the muscle of his lower right back. The medical examiner also found a series of gunshot wound complexes to Subject 1's left arm and to his right hand. The medical examiner *did not* find a series of injuries that would be consistent with Subject 1 being shot multiple times in the back.

When reviewing the post mortem examination in connection with Officer A's statement, the post mortem examination supports Officer A's account as it relates to Subject 1's positioning during the incident. First, the entry wound on the right side of his back with the corresponding projectile lodged in the left abdominal wall is consistent with Subject 1 having his right side turned towards Officer A at the time he fired. Additionally, the postmortem examination confirms that the only gunshot wound to Subject 1's back is an entry wound from right to left, as the bullet entered the right side of his back and lodged in his left abdominal wall. Second, the entry wound in the left side of the neck in which the bullet travelled downward supports that Subject 1 was bent forward with the upper left side of his torso towards Officer A. This wound may have occurred while Subject 1 fell through Officer A's field of fire or it could have occurred when Subject 1 was turning before he fell to the ground. The trajectory of the wound supports either angle. However, the medical examiner's report does not offer any opinion regarding the sequence of shots. Third, the complex of wounds found on Subject 1's left arm and right hand are consistent with Subject 1's hands and arms facing towards Officer A at the time he was shot.

3. *Eye witness accounts.*

After an extensive canvass, IPRA obtained statements from five civilian witnesses. While their statements varied significantly regarding specific details, such as whether or not Subject 1 had a gun, the proximity of Officer A to Subject 1, whether or not Subject 1 was running away from Officer A, or if Officer A grabbed Subject 1, the events unfolded within seconds and as such, the perception of the eye witnesses may differ. However, the witnesses were consistent in their assertion that Officer A shot Subject 1 multiple times, by some accounts, in the back.

An evaluation of the statements was made and the following illustration depicts where each person relates they were at the time this event occurred:

[Illustration redacted]

Civilian 3 stated that she watched Officer A stand directly over Subject 1 and then fire five or six times in rapid succession into Subject 1's back. Civilian 3 stated that she could see smoke emanating from the muzzle of Officer A's weapon and the impact of the fired bullets passing through Subject 1's shirt and into his back.

Civilian 2 stated that Officer A shot Subject 1 once as Subject 1 was running from him. According to her, Subject 1 fell to the ground and was lying face down but slightly on one side and was not moving.

Mr. Civilian 7 stated that when Officer A shot Subject 1 initially, striking him in the back, Subject 1 fell face first to the ground and never moved again. Civilian 7 claimed that Officer A then shot the motionless Subject 1 four or five additional times in his back.

Mr. Civilian 4 stated that Subject 1 had his back turned to Officer A when Officer A fired the first shot at him. He went on to state that Officer A then fired five or six additional times at Subject 1, who was lying on the ground.

Finally, according to Civilian 8, Officer A shot Subject 1 in the back and Subject 1 raised his hands as he fell to the ground. Then, Officer A fired five to six more times in rapid succession directly into Subject 1's back.

The reports of the civilian eyewitnesses, who claimed that Subject 1 was shot multiple times in the back as he lay on the ground, are inconsistent with the pathologist's report and the physical evidence. Based on the review of the medical examiner's independent findings, it was determined that Subject 1's injuries were incurred in a manner consistent with Officer A's account. The medical examiner does not detail any entry wound squarely to into Subject 1's back, rather the sole wound to Subject 1's posterior is at an angle, across his body, from the right side of his back to the left side of his abdomen. Additionally, the physical evidence contradicts that Officer A discharged his weapon five to six times. The fired cartridge casings recovered at the scene compared to Officer A's service weapon verify that he discharged his weapon only three times. This again is in direct contradiction to the claim by the eye witnesses that assert that Officer A fired his weapon five or six times.

There is nothing in the record to indicate where specifically Civilian 4 was located in relation to Subject 1 or Officer A. Civilian 3 and Civilian 2 were sitting in a vehicle parked on the

west side of the street, within a car's length of where the incident took place. Civilian 3 and Civilian 2 were within the closest proximity to where the shooting occurred. Civilian 3 stated that she observed Subject 1 run past their vehicle, at which time she heard a taser being deployed before hearing the gunshots. However, Civilian 3 stated that she observed Officer A stand directly over Subject 1 as he lay on the ground and fire five or six times, striking him in the back. Civilian 2 was able to see that Officer A was close behind Subject 1, just out of arms' reach. Civilian 2 stated that she saw Officer A fire a second time but she looked away. When she looked back, she was able to see Subject 1's firearm near his head. Civilian 2 stated that after Subject 1 fell to the ground, the officer shot him three more times. She was not specific as to where Officer A shot Subject 1. Civilian 2 did not give any account of Officer A firing multiple times into the back of Subject 1 as he lay on the ground.

Civilian 8 stated he was approximately twenty feet away from the point where the shooting occurred at the time it unfolded. Despite his proximity to the incident, Civilian 4 stated that he never saw a weapon in the possession of, or near, Subject 1 and he believed Subject 1 to have been shot in the back five or six times. Civilian 7 stated that Subject 1 ran fifteen feet away from the group of people located on the street and that he personally was standing fifteen feet way when Subject 1 was shot and had a clear view. Despite having a clear view, Civilian 7 believed that Subject 1 was shot multiple times in the back as he lay on the ground.

The difference in perception between the eyewitness accounts and the physical evidence is not a testament to their credibility; instead, it speaks to how rapidly the situation unfolded. In addition, the large number of people on the scene, coupled with the low light conditions, could have affected their ability to accurately perceive the incident. Finally, it is important to note that the individual closest to Subject 1 during the incident was Officer A. As such, his perception of the events may be more accurate. Officer A's account is also supported by the physical evidence and the medical examiner's findings.

Officer A reasonably believed that Subject 1 was a threat because he wielded a firearm.

As outlined above, the evidence supports that Subject 1 was armed. The question remains whether Subject 1 presented an imminent threat of harm to Officer A and others. As outlined in the General Order, deadly force is permitted by an officer who reasonably believes it is necessary to prevent death or great bodily harm to the sworn member or to another person. Here, a reasonable officer with Officer A's training and experience would perceive that Subject 1 presented an imminent threat of death or great bodily harm.

This analysis must take into account the totality of the circumstances confronting the officer. In this instance, Officer A was operating with the knowledge that an individual located on the XXXX block of North Langley was likely in possession of a firearm. This knowledge was based on a 911 call of a "person with a gun." The description given was a man in a black leather jacket, and a black Blackhawks hat. The caller specifically alerted OEMC that the individual had a gun in his waistband. Within moments of responding, Officer A approached Subject 1 because he fit the description given by the 911 caller. Subject 1 had begun to move away from the large group of people that were located on the street.

Officer A closed the distance between himself and Subject 1 and grabbed Subject 1 by the back of the upper part of his jacket. When Officer A announced his office, and told Subject 1 to show his hands, Subject 1 refused to show his hands and continued to move away from Officer A. Subject 1 then began to turn his upper body toward Officer A, and Officer A could see Subject 1's hand on a handgun in his waistband. As Subject 1 started to pull the handgun from his waistband, Officer A released his grip on Subject 1's jacket.

Officer A explained that at that point, he believed that Subject 1 was drawing the firearm from his waistband with the intent to use it against either him or his partner. Fearing that he may be shot by Subject 1, Officer A fired his weapon at Subject 1. Though he does not recall how many times he fired, Officer A does explain that his first sequence of fire was based in reaction to the threat he perceived Subject 1 presented.

Officer A further explained that as Subject 1 fell to the ground he rolled onto his back, at which time Officer A was able to see that Subject 1 had successfully drawn his firearm the rest of the way from his waistband, and was now holding it at chest level. Officer A believed Subject 1 was still attempting to use his firearm against him, and at this time he fired at Subject 1 again. Though he does not recall how many times he fired, either once or twice, Officer A does explain that this second sequence of fire was based in reaction to the threat he perceived Subject 1 still presented, as he now had the firearm drawn and pointed in his direction.

Officer A explained that after his second sequence of fire, Subject 1 stopped moving and his grip on his firearm loosened, at which time the weapon fell onto his chest. Though his hand was still on the weapon, Officer A reasonably concluded that he no longer presented an immediate threat, and he therefore did not fire at Subject 1 a third time.

In this case, the totality of the circumstances led Officer A to reasonably believe that the use of deadly force was appropriate.

Officer A's belief that Subject 1 presented a threat of death or great bodily harm to himself or others was objectively reasonable under the circumstances

Based on the totality of the circumstances, it was objectively reasonable for Officer A to believe that Subject 1 posed an immediate threat to the safety of the responding officers or others in the area. The specific circumstances include 1) everything known to Officer A prior to initiating contact with Subject 1, 2) Officer A observed Subject 1 place his hand on the butt of a handgun and attempted to remove it from his waistband, and 3) Officer A observed Subject 1 attempting to fully raise the firearm while lying on the ground.

As outlined above, this incident involved two separate uses of deadly force by Officer A because there were two separate sequences of fire. Though separated by mere seconds, in each instance it was objectively reasonable for Officer A to believe that Subject 1 presented an immediate threat of death or great bodily harm.

Officer A found himself confronted with a rapidly unfolding situation. Responding to the "man with a gun" call, he attempted to stop Subject 1 who refused to comply with verbal direction to stop and show his hands. Subject 1 began to turn toward Officer A with his hand on a firearm in his waistband. Officer A observed that Subject 1 was drawing his firearm, leading him to

reasonably conclude that Subject 1 intended to use the firearm. Additionally, Officer A 's close proximity to Subject 1, which placed Officer A in firing range of Subject 1, and Subject 1's refusal to obey verbal commands, accelerated the speed at which Officer A needed to make a decision. Officer A was placed in situation in which he needed to decide very quickly whether or not to employ deadly force.

After Subject 1 had been shot and fell to the ground, he was still in possession of his firearm and held the weapon in his hand at chest level. It is important to note that even at this point, Subject 1 did not cease in drawing of the firearm fully from his waistband. Officer A explained that the weapon was pointed in his direction and that he still considered Subject 1 to pose an active and immediate threat. This second perception is objectively reasonable, as Subject 1 was holding a deadly weapon in his hand. Additionally, Officer A was not the only person in harm's way, as there were numerous civilians present in the immediate area as well as other responding officers. After the second sequence of shots, Subject 1 stopped moving and his grip on his firearm loosened. Though his hand still remained on his weapon, Officer A evaluated the situation and determined that Subject 1 was no longer presenting a threat.

Because of Officer A 's belief that Subject 1 presented a danger to himself and to others in the area was objectively reasonable, Officer A was entitled to use deadly force against Subject 1. Therefore, COPA finds that an officer with similar training and experience as Officer A would reasonably believe that Subject 1 posed an immediate threat to his or her safety. The use of deadly force by Officer A was objectively reasonable and within policy as outlined by the Use of Force Model; the Illinois State statute; and the Chicago Police Department's General Order 03-02-03, III.